

REMARKS

By this Amendment, Applicants have amended claims 1, 41, 42, 66, 83-85, and 96 to further clarify the claim language and/or correct typographical errors. Claims 1 to 113 are pending.

In the Office Action, the Examiner:

- 1) rejected claims 1, 41, 42, 83, 85, and 96 under 35 U.S.C. § 101 as allegedly directed to an abstract idea;
- 2) rejected claims 1-5, 7, 11, 12, 18, 34-36, 41-46, 48, 52, 53, 75-77, 82, 85, 86, and 96 under 35 U.S.C. § 103(a) based on U.S. Patent No. 6,692,127 ("*Abitbol*") and U.S. Patent No. 6,081,611 ("*Linford*");
- 3) rejected claims 37-40, 78-81, and 92-95 under 35 U.S.C. § 103(a) based on *Abitbol*, *Linford*, and U.S. Patent No. 6,526,158 ("*Goldberg*");
- 4) rejected claims 6, 13-17, 21-26, 28-31, 33, 47, 54-59, 62-67, 69-72, 74, 83, 84, 87-91, 97, 99, 100, 102-104, 107, and 109-111 under 35 U.S.C. § 103(a) based on *Abitbol*, *Linford*, and U.S. Patent No. 6,571,003 ("*Hillebrand*");
- 5) rejected claims 8 and 49 under 35 U.S.C. § 103(a) based on *Abitbol*, *Linford*, and U.S. Patent No. 6,377,745 ("*Akiba*");
- 6) rejected claims 9, 10, 27, 50, 51, and 68 under 35 U.S.C. § 103(a) based on *Abitbol*, *Linford*, *Akiba*, and Publication No. 2003/0014324 A1 ("*Donovan*");
- 7) rejected claims 19 and 60 under 35 U.S.C. § 103(a) based on *Abitbol*, *Linford*, *Akiba*, and U.S. Patent No. 6,215,498 ("*Filo*");

- 8) rejected claims 20 and 61 under 35 U.S.C. § 103(a) based on *Abitbol*, *Linford*, and "Skin Aging Estimation by Facial Simulation," IEEE 1999 ("Wu");
- 9) rejected claims 32 and 73 under 35 U.S.C. § 103(a) based on *Abitbol*, *Linford*, and U.S. Patent No. 6,516,245 ("*Dirksing*"); and
- 10) rejected claims 98, 101, 105, 106, 108, 112, and 113 under 35 U.S.C. § 103(a) based on *Abitbol*, *Linford*, and European Patent No. 1134701 A2 ("*Hima*").

REJECTION UNDER 35 U.S.C. § 101

Applicants respectfully traverse the rejection of claims 1, 41, 42, 83, 85, and 96 under 35 U.S.C. § 101 as allegedly directed to an abstract idea. Page 2 of the Office Action asserts that the claims are not producing an "altered body image," "altered facial image," or "external body image." Applicants note that claims 1, 41, 42, 83, 85, and 96 are *clearly* directed to constructing an altered body image, an image of an external body condition, or an altered facial image. For instance, claim 1 recites "A method of constructing an altered body image, the method comprising: . . . enabling the initial body image to be altered based on the subject's response to the at least one prompt, to thereby reflect in the altered image the self-evaluation of the subject." Hence, claim 1 is clearly directed to constructing an altered body image.

In order to advance the prosecution of this case, Applicants have amended claims 1, 41, 42, 83, 85, and 96 as shown in the **Amendments to the Claims** section, to further clarify that they are directed to constructing an altered body image, an altered facial image, or an enhanced image of an external body condition. Accordingly, for at

least the above reasons, the rejection of claims 1, 41, 42, 83, 85, and 96 under 35 U.S.C. § 101 should be withdrawn.

REJECTION UNDER 35 U.S.C. § 103

CLAIMS 1-41 AND 96-99

Applicants respectfully traverse the rejection of claims 1-41 and 96-99 under 35 U.S.C. § 103(a) because neither *Abitbol*, *Linford*, *Goldberg*, *Hillebrand*, *Akiba*, *Donovan*, *Filo*, *Wu*, *Dirksing*, nor *Hima*, separately or in the Examiner's proffered combinations, teaches or suggests each and every element recited in the claims. In particular, the Examiner appears to rely on *Abitbol* and *Linford* as the primary references (either together or in combination with the other references) to reject pending claims 1-41 and 96-99. However, neither *Abitbol* nor *Linford* teaches or suggests, separately or in combination, at least causing presentation of (or presenting) at least one prompt "prompting" a subject "to self-evaluate" an "actual condition" of the subject's body, as recited in independent claims 1, 41, and 96. Nor do they teach or suggest, separately or in combination, at least enabling an "initial body image" to be altered based on the "subject's response" to the at least one "prompt," to thereby reflect in the "altered body image" the "self-evaluation" of the subject, as recited in claims 1, 41, and 96. Further, *Goldberg*, *Hillebrand*, *Akiba*, *Donovan*, *Filo*, *Wu*, *Dirksing*, and *Hima*, separately or in the Examiner's proffered combinations, fail to overcome the deficiencies of *Abitbol* and *Linford*.

For example, *Abitbol* is directed to a spectacles-fitting system that includes a wide-view imaging system for providing a wide-view of a client's face. *Abitbol*, Abstract. A 3-D image processor in the system generates 3-D information describing the client's

physical features. *Id.* A virtual try-on unit in the system receives a 3-D representation of the client's face and virtually mounts a spectacle frame onto the client's face to generate a 3-D representation illustrating the fit of the frame to the client's face. *Id.*

Linford is directed to an aesthetic imaging system for use in editing digital images. *Linford*, Abstract. The imaging system includes an imaging program that runs on a personal computer with an image capture board, a monitor, a video source, and a pen and tablet for editing images. *Id.* The imaging system is used during a patient's preoperative visit with a physician and allows the physician to manipulate the patient's image to provide an impression of the results that a physician may achieve through surgery. *Id.*, col. 4, lines 3-15.

Goldberg is directed to picture-taking systems for visitors at places such as Disneyland, to obtain pictures of themselves doing a number of different activities, such as standing next to a cartoon character or taking a roller coaster ride. *Goldberg*, col. 1, lines 26-39. *Goldberg* discloses attaching a remote identification tag 49 to the shirt of a patron at Disneyland, which can be used to identify the patron. *Id.*, col. 6, lines 32-33. A digital camera 63 can take pictures of the patron, which can be later picked up at a kiosk 75 using the identification tag 49. *Id.*, Fig. 2; col. 6, lines 44-65. Image modification programs may modify the pictures for the interest and entertainment of the patron. *Id.*, col. 24, lines 2-4 and 10-12. For example, the picture may be placed in a cartoon background, or the patron may be made to look like a pirate with a scar on the patron's cheek, earrings on his ears, a patch over his eyes, a bandanna on his head, and a torn shirt on his body. *Id.*, Fig. 12; col. 23, line 64 to col. 24, line 16.

Hillebrand is directed to a skin imaging analysis system in which the need for a consumer or a beauty consultant to identify defects in the consumer's skin is eliminated by having a computer identify the skin defects. *Hillebrand*, col. 1, lines 16-40 and 51-67. *Hillebrand* proposes a system in which a computer (controller 200, for example) analyzes skin defects without the subjective input of the consumer and the beauty counselor. *Id.*, col. 4, lines 38-54.

Akiba is directed to a system for reproducing video data from multiple channels and indexing the video data generated from the multiple channels. *Akiba*, Abstract.

Donovan is directed to synthesizing and distributing retail products to a customer based on the customer's product preferences. *Donovan*, Fig. 1; ¶¶ 0002-0008.

Filo is directed to a network computer-based system for creating a virtual work environment such that the participants at various levels of emersion within the virtual work environment are able to perform complimentary, independent, and cooperative tasks in parallel to create simultaneous sets of solutions to problems outside the virtual work environment. *Filo*, col. 1, lines 4-10.

Wu is directed to a layered facial simulation model for skin aging with wrinkles. The model includes muscle, connective tissue, and a skin layer. *Wu*, Abstract.

Dirksing is directed to a method and an apparatus for providing a consumer with personalized beauty care cosmetic products. *Dirksing*, col. 1, lines 6-8. Cartridges 220 house fluids, which can be combined in consumer specified quantities to produce a customized cosmetic product. *Id.*, Fig. 2A; col. 4, lines 18-34.

Hima is directed to a three-dimensional beauty simulation client-server system to carry out beauty simulations based on a user's face model data. *Hima*, ¶ 0001.

Accordingly, neither *Abitbol*, *Linford*, *Goldberg*, *Hillebrand*, *Akiba*, *Donovan*, *Filo*, *Wu*, *Dirksing*, nor *Hima* teaches or suggests, separately or in the Examiner's proffered combinations, at least causing presentation of (or presenting) at least one prompt "prompting" a subject "to self-evaluate" an "actual condition" of the subject's body, as recited in independent claims 1, 41, and 96. Further, neither do they, separately or in the Examiner's proffered combinations, teach or suggest at least enabling an "initial body image" to be altered based on the "subject's response" to the at least one "prompt," to thereby reflect in the "altered body image" the "self-evaluation" of the subject, as recited in claims 1, 41, and 96.

The Office Action at page 3 asserts that col. 10, lines 20-29 and col. 11, lines 29-30 of *Abitbol* teach "prompting" a subject "to self-evaluate" an "actual condition" of the subject's body. To the contrary, *Abitbol* at col. 10, lines 20-29 and col. 11, lines 29-30 merely discloses instructing a customer on self-operation of an imaging system and prompting the customer to select a frame. For example, the customer may be instructed to approach the imaging system until his body touches a counter and then adjust a seat elevation up or down until his eyes are bisected by a horizontal line drawn on a mirror at the user-facing surface of a front camera. *Abitbol*, col. 10, lines 10-27. The imaging system may prompt the customer to select a frame that the customer can virtually try-on using the imaging system. *Id.*, col. 10, lines 33-36. However, instructing a customer on self-operation of an imaging system and prompting the customer to select a frame in *Abitbol* is not the same as and does not suggest "prompting" a subject "to self-evaluate" an "actual condition" of the subject's body.

The Office Action at page 3 also asserts that col. 9, lines 16-23 and 46-50 of *Linford* teach enabling an “initial body image” to be altered based on the “subject’s response” to the at least one “prompt,” to thereby reflect in the “altered body image” the “self-evaluation” of the subject, as recited in independent claims 1, 41, and 96. However, *Linford* at col. 9, lines 16-23 and 46-50 merely discloses authenticating images using a checksum to ensure viewers that physicians have not altered post-surgical images of a patient to deceive them into believing the patient looks better than he actually does after undergoing cosmetic surgery. *Linford*, col. 9, lines 19-23. This is not the same as and does not suggest enabling an “initial body image” to be altered based on the “subject’s response” to the at least one “prompt,” to thereby reflect in the “altered body image” the “self-evaluation” of the subject, as recited in claims 1, 41, and 96.

Hence, because the cited references, separately or in the Examiner's proffered combinations, fail to teach or suggest each and every element recited in independent claims 1, 41, and 96, the rejection of those claims under 35 U.S.C. § 103(a) should be withdrawn and claims 1, 41, and 96 should be allowed. Further, dependent claims 2-40 and 97-99 should also be allowed at least by virtue of their dependence upon allowable claims 1 and 96, respectively.

CLAIMS 42-82

Applicants respectfully traverse the rejection of claims 42-84 under 35 U.S.C. § 103(a) because neither *Abitbol*, *Linford*, *Goldberg*, *Hillebrand*, *Akiba*, *Donovan*, *Filo*, *Wu*, nor *Dirksing*, separately or in the Examiner's proffered combinations, teaches or suggests each and every element recited in the claims.

Particularly, neither *Abitbol* nor *Linford* teaches or suggests, separately or in combination, at least causing presentation of (or presenting) at least one prompt “prompting” a subject “to self-evaluate” an “actual color” and/or “texture” of an “external body condition,” as recited in claim 42. Moreover, neither do they teach or suggest, separately or in combination, at least enabling generation, based on a representative image and at least one response, of an enhanced body image intended to more accurately portray the subject’s external body condition, as recited in claim 42. *Goldberg, Hillebrand, Akiba, Donovan, Filo, Wu, and Dirksing*, separately or in the Examiner’s proffered combinations, fail to overcome the deficiencies of *Abitbol* and *Linford*. (The disclosures of *Abitbol, Linford, Goldberg, Hillebrand, Akiba, Donovan, Filo, Wu, and Dirksing* are described above.)

Hence, because the cited references fail to teach each and every element recited in independent claim 42, the rejection of claim 42 under 35 U.S.C. § 103(a) should be withdrawn and claim 42 should be allowed. Further, dependent claims 43-82 should also be allowed at least by virtue of their dependence upon allowable claim 42.

CLAIMS 83 AND 84

Applicants respectfully traverse the rejection of claims 83 and 84 under 35 U.S.C. § 103(a) because neither *Abitbol* nor *Linford* teaches or suggests, separately or in combination, at least causing presentation of (or presenting) at least one prompt “prompting” a subject “to self-evaluate” an “actual color” and/or “texture” of an “external body condition,” and generating, based on a representative image and at least one response, an enhanced body image intended to more accurately portray the subject’s external body condition, as recited in claims 83 and 84. The Office Action at page 8

asserts that col. 16, lines 65-67 in *Abitbol* teach self-evaluating an actual color and/or texture of an external body condition. However, *Abitol* at col. 16, lines 65-67 merely discloses tinting and coating 3-D images of prospective lenses of eyeglass frames. *Abitbol*, col. 16, lines 63-64. This is not the same as and does not suggest “prompting” a subject “to self-evaluate” an “actual color” and/or “texture” of an “external body condition” of the subject. The tinting and coating of prospective lenses are not an “actual color” and/or “texture” of an “external body condition” of the subject.

Hillebrand fails to cure the deficiencies of *Abitbol* and *Linford*. *Hillebrand* is directed to a skin imaging analysis system in which the need for a consumer or a beauty consultant to identify defects in the consumer’s skin is eliminated by having a computer identify the skin defects. *Hillebrand*, col. 1, lines 16-40 and 51-67. *Hillebrand* proposes a system in which a computer (controller 200, for example) analyzes skin defects without the subjective input of the consumer and the beauty counselor. *Id.*, col. 4, lines 38-54. *Hillebrand* does not teach or suggest causing presentation of (or presenting) at least one prompt “prompting” a subject “to self-evaluate” an “actual color” and/or “texture” of an “external body condition,” and generating, based on a representative image and at least one response, an enhanced body image intended to more accurately portray the subject’s external body condition, as recited in claims 83 and 84.

Accordingly, because the cited references fail to teach each and every element recited in the claims, the rejection of claims 83 and 84 under 35 U.S.C. § 103(a) should be withdrawn and claims 83 and 84 should be allowed.

CLAIMS 85-95

Applicants respectfully traverse the rejection of claims 85-95 under 35 U.S.C. § 103(a) because neither *Abitbol* nor *Linford* teaches or suggests, separately or in combination, at least “enabling” a subject to participate in selecting a “new visual element to replace” at least one identified “bias element.” Further, neither do they teach or suggest enabling the construction of an altered image from the facial image by replacing the at least one identified bias element with the new visual element. *Goldberg* and *Hillebrand*, separately or in the Examiner's proffered combinations, fail to overcome the deficiencies of *Abitbol* and *Linford*. (The disclosures of *Abitbol*, *Linford*, *Goldberg*, and *Hillebrand* are described above.)

Accordingly, because the cited references fail to teach each and every element recited in independent claim 85, the rejection of claim 85 under 35 U.S.C. § 103(a) should be withdrawn and claim 85 should be allowed. Further, dependent claims 86-95 should also be allowed at least by virtue of their dependence upon allowable claim 85.

CLAIMS 100-113

Applicants respectfully traverse the rejection of claims 100-113 under 35 U.S.C. § 103(a) because neither *Abitbol* nor *Linford*, separately or in combination, teaches or suggests at least “prompting” a subject to “compare” (or comparing) color of a displayed image with an actual color of the subject (or with an actual color of a body region), as recited in claims 100 and 107. Moreover, neither do they teach or suggest, separately or in combination, enabling the subject to calibrate (or calibrating) the color of the image when a difference is perceived between the displayed image and the actual color. *Hillebrand* and *Hima*, separately or in the Examiner's proffered

combinations, fail to overcome the deficiencies of *Abitbol* and *Linford*. (The disclosures of *Abitbol*, *Linford*, *Hillebrand*, and *Hima* are described above.)

The Office Action at page 9 asserts that col. 8, lines 33-67 of *Hillebrand* teach “prompting” a subject to “compare” (or comparing) color of a displayed image with an actual color of the subject (or with an actual color of a body region). However, *Hillebrand* merely discloses a system, such as controller 200, that determines numerical severity associated with a defect area. *Hillebrand*, col. 8, lines 47-51. Controller 200 analyzes skin defects without the subjective input of the consumer and the beauty counselor. *Id.*, col. 4, lines 38-54. This is not the same as and does not suggest “prompting” a subject to “compare” (or comparing) color of a displayed image with an actual color of the subject (or with an actual color of a body region) and enabling the subject to calibrate (or calibrating) the color of the image when a difference is perceived between the displayed image and the actual color, as recited in claims 100 and 107.

Hence, because the cited references fail to teach each and every element recited in independent claims 100 and 107, the rejection of claims 100 and 107 under 35 U.S.C. § 103(a) should be withdrawn and claims 100 and 107 should be allowed. Further, dependent claims 101-106 and 108-113 should also be allowed at least by virtue of their dependence upon allowable claims 100 and 107, respectively.

CONCLUSION

Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

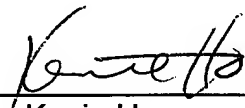
Applicants note that the Office Action contains numerous statements reflecting apparent assertions concerning the claims and cited art. Regardless of whether any such statement is addressed specifically herein, Applicants decline to automatically subscribe to any assertion and/or characterization set forth in the Office Action.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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